



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: April 23, 2012
To: Interested Person
From: Sheila Frugoli, Land Use Services
503-823-7817 / Sheila.Frugoli@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 12-119236 AD

GENERAL INFORMATION

Applicant: Kwang Lee
Helen's Investment Property, LLC
1726 SW 4th Ave
Portland, OR 97201

Owners: Norma and Francisco Valenzuela
5009 N Interstate Ave
Portland, OR 97217

Site Address: 5009-5017 N INTERSTATE AVE
Also Owns: 1521 N Alberta St.

Legal Description: BLOCK 12 LOT 13&14 EXC PT IN ST, RIVERSIDE ADD
Tax Account No.: R709604880
State ID No.: 1N1E21AA 22500
Also Owns: BLOCK 12 LOT 15, RIVERSIDE ADD, R709604920, 1N1E21AA 22400
Quarter Section: 2528

Neighborhood: Overlook, contact Kent Hoddick at 503-326-2549.
Business District: Interstate Corridor Business Association, contact Aleksandra Johnson at 503-735-4420.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: North Interstate
Zoning: EXd, Central Employment zone, d, Design Review overlay zone

Case Type: AD, Adjustment Review
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal: The applicant is requesting to waive a Zoning Code requirement that restricts vehicle access. This North Interstate Plan District (Zoning Code standard 33.561.300) does not allow motor vehicle access to vehicle areas from Interstate Avenue, unless a site has no other street frontage. The subject site is at the northwest corner of N Interstate and Alberta. As illustrated on the submitted site plan, the applicant proposes to move the existing curb cut on N Alberta closer to the west property line and to construct a new one-way (exit only) curb cut onto N Interstate. New on-site parking and loading will be located on the west and north sides of the existing building. The applicant states the owner wishes to find a new commercial tenant for this property.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria have been met.

ANALYSIS

Site and Vicinity: The 7,991 square foot lot contains a one-story, 2,990 square foot commercial building. The building was constructed in the 1920s. The building has retained the prominent architectural features seen in early 20th century streetcar era commercial buildings. The main entrance is oriented to the corner—N Alberta and Interstate and both street facing facades were constructed with storefront windows. The building appears to be vacant. There is a small driveway with a parking space off N Alberta. The site fronts the Interstate MAX light rail line. The light rail tracks are located in the middle of the right-of-way, separating the vehicle traffic. The southbound traffic lane fronts properties on the west side of Interstate Avenue. Because this site is located at a signalized intersection with turn lanes, the site is accessible from all directions. Nearby sites, with frontage on N. Interstate, are primarily developed with commercial uses. A paint supply store—Miller Paints, is located in the commercial building, immediately across N. Alberta

Zoning: The site is zoned EXd. The Central Employment (EX) zone allows mixed uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area.

The design (d) overlay zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. In certain areas, such as the North Interstate Corridor, projects are eligible to use the alternative Community Design Standards. This is a plan check review. Objective design-related development standards must be addressed.

Land Use and Code Enforcement History: City records indicate there was a prior land use review in 1963 for this site. A Variance was approved to allow a large billboard sign at the site (case: VZ 028-63). *Note: The billboard has been removed from the site.* The site and the western abutting lot, that is under the same ownership, both have a history of nuisance violations. Since 1994 the City has cited the property for disabled vehicles, trash and housing code violations.

Staff Comments: *A concerned neighbor, see comments below, raised concerns about the violation history on the site. Many of the concerns raised speak directly to the approval criteria and therefore will be analyzed under the applicable findings below. All Portland residents and business owners deserve considerate, law-abiding neighbors who maintain their properties.*

However, nuisance concerns do not relate to the proposal—a request to waive the vehicle access restriction—and therefore cannot be considered as part of this Adjustment review. If violations to other City Codes are occurring, separate enforcement actions can be taken.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **March 26, 2012**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services (Exhibit E.4)
- Water Bureau (Exhibit E.3)
- Fire Bureau (Exhibit E.4)
- Site Development Section of BDS (Exhibit E.4)
- Bureau of Parks-Forestry Division (Exhibit E.4)

The Portland Bureau of Transportation responded with the following comments.

Portland Transportation/Development Review has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. PBOT believes that one-way circulation on the site is preferable to a two-way driveway on Alberta. An access on Interstate would be right-in, right-out only, which could potentially work better than a full access on Alberta so close to the signal, however, full access is not proposed. It is to be in from Alberta out onto Interstate.

There should be a sign on-site for Interstate that clearly says Exit Only, visible to drivers coming down Interstate. A sign on Alberta should say Entrance Only. There should also be a sign on-site as you exit onto Interstate that says Right Turn Only. Underneath the Exit and Enter Only signs it should also say One-Way.

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits. (Exhibits E.1 and E.2)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 26, 2012. One written response has been received from either the Neighborhood Association or notified property owners in response to the proposal. A nearby neighbor raised the following concerns:

- Will the driveway on Interstate affect the existing bike path?
- All site changes need to address adjacent properties (both new drives appear to abut existing driveways).
- Will they be required to do the landscape buffer should this project be approved?
- Would prefer to wait and see what tenants are acquired and then address site changes based on their needs.
- If the project is not tied to development of the structure itself, there are concerns about future stockpiling of vehicles and garbage.
- Why does the project include such a large loading area? There are concerns, given the owners history of stockpiling and complaints. (Exhibit F.1)

Staff Comments: *Staff cannot require an applicant to identify the specific tenants who will occupy a commercial structure. At building permit review (for new construction and occupancy changes), planning staff require the applicant to identify the proposed use category, such as retail, office or residential.*

Those concerns that speak directly to the approval criteria will be analyzed under the applicable findings, below.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The applicant is requesting to vary from the North Interstate Plan District requirement. The purpose of the regulation is as follows:

Purpose 33.561.300 Motor Vehicle Access

To encourage a transit-supportive, pedestrian-oriented environment with a continuous frontage of buildings and active uses along Interstate Avenue, motor vehicle access should be limited when possible.

The applicant proposes to move the existing curb cut on N. Alberta closer to the west property line and to construct a new one-way (exit only) curb cut onto N. Interstate. New on-site parking and loading will be located on the west and north sides of the existing building. The applicant's proposal identifies a 5-foot deep landscaped area located along the west and north property lines and landscaping to screen the parking and loading area along the street frontages. The landscaping will create a visual buffer which will support a transit and pedestrian oriented development pattern. A portion of the landscape area will be designed as a swale to address stormwater management requirements. The submitted site plan shows four angled (45 degree) parking spaces, a 12 foot wide one-way driveway and a large, approximately 1,000 square foot loading area. The Zoning Code does not require on-site loading for commercial buildings that are smaller than 20,000 square feet in floor area. Therefore, the applicant could propose additional angled on-site parking instead of the loading area. Note: The maximum allowed number of on-site parking spaces is based upon the type of use, i.e. retail, restaurant, office, and the size of floor area of each respective tenant space. The perimeter landscaping requirement is the same for both loading and parking areas.

A nearby neighbor raised concerns that a large loading area will be used for exterior storage of materials and "stockpiling of vehicles and garbage". An approved parking area cannot be converted into an exterior storage area. The EX, Central Employment zone does not allow exterior display, storage or work activities. Large (heavy) trucks such as semi-trucks may conduct loading activities, but may not be parked on site. Furthermore, parking is allowed for operable vehicles only. Inoperable/disabled vehicles may not be stored on-site. Lastly, the new vehicle area (parking and loading) is subject to the requirements of the d, Design Overlay zone. If the applicant chooses to comply with Community Design Standards, through a plan check review, the total amount of vehicle area will have to be reduced so that it does not exceed 50 percent of the site (Zoning Code Section 33.218.140.H).

The site has 100 feet of frontage on N. Interstate. A new 12-foot wide driveway with access onto N. Interstate and a new landscaped parking and vehicle area will be of negligible impact to the pedestrian experience. This approval criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The site has frontage on N. Alberta and N. Interstate streets. N. Alberta is a designated local service street. N. Interstate is a designated District Collector, Regional Transitway, City Bikeway and City Walkway. The Portland Bureau of Transportation has reviewed the proposal and determined that a one-way circulation off N. Alberta and vehicle

egress onto N. Interstate is acceptable. In order to reduce traffic conflicts, PBOT recommends conditions that requires the installation of directional signs be installed near the driveways that identify the one-way aisle and the entrance and exit restrictions.

The nearby neighbor who submitted comments raised concerns about impacts to the bicycle lane on N Interstate. The PBOT staff evaluates the potential impacts to all forms of transportation. Motorists leaving the site, turning right only, will have a clear view of bicyclists in the bike lane.

The Zoning Code defines the term “desired character” as being based on the purpose statement of the base zone, overlay zone and plan district and the preferred and envisioned character included in adopted area plans (Section 33.910.030). The proposal is in the EX, Central Employment zone. Further, the site is also in the d, Design overlay zone. Further, the site is within the North Interstate Plan District and the plan boundary of the adopted North Interstate Corridor Plan (adopted July 23, 2008, effect August 22, 2008).

As noted on page 2 of this report, the site is within the EX, Central Employment zone and the d, Design Review overlay zone.

The purpose of the North Interstate Plan District (33.561.010) is described as follows:

The North Interstate plan district provides for an urban level of mixed-use development to support the MAX line and the surrounding neighborhoods by encouraging development that increases neighborhood economic vitality, amenities, and services and successfully accommodates additional density. These standards:

- *Implement urban design concepts of the North Interstate Corridor Plan;*
- *Help ease transitions between new high-density development and the existing, low-density neighborhoods; and*
- *Enhance the pedestrian experience.*

An objective of the **North Interstate Corridor Plan** is to:

Support and sustain the neighborhood by encouraging development that increases neighborhood economic vitality, amenities, and services and successfully accommodates additional density by encouraging quality development that strives to minimize negative impacts on the surrounding neighborhood.

As it relates to vehicle area access, the proposal does not conflict with the desired character of the area. With required landscaping, the new parking area with egress onto N. Interstate, will not reduce the desired pedestrian experience or negatively impact the surrounding neighborhood.

With compliance with conditions, this approval criterion is satisfied.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone.

Findings: The applicant requested an Adjustment to one development standard. Therefore this criterion does not apply.

D. City designated scenic resources and historic resources are preserved; and

Findings: Because this site is not designated with protected resources, this criterion does not apply.

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: In order to satisfy the approval criterion, a condition requires directional signs be installed to guide customers/employees to the Alberta Street vehicle entrance. And to ensure that the proposed new vehicle area is consistent with the desired character of the area, a condition requires the parking lot be constructed to meet all applicable standards including parking lot landscaping. With compliance with these conditions, this approval criterion can be satisfied.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resources and resource value as is practical.

Findings: Environmental overlay zones are designated on the Official Zoning Map with either a lower case “p” (Environmental Protection) or “c” Environmental Conservation. As there are no environmental overlay zones mapped on the site, this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

As the findings explain, with conditions, the approval criteria can be met.

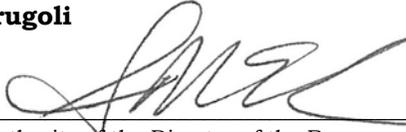
ADMINISTRATIVE DECISION

Approval of an Adjustment to waive the restriction of vehicle access onto N. Interstate to allow a 12-foot wide driveway for only egress onto N. Interstate, per the approved site plan, Exhibit C.1, signed and dated April 19, 2012, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B and C) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 12-119236 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Directional signs, each no larger than 6 square feet, must be installed on the site, as follows:
 1. Install an east facing directional sign adjacent to the driveway, near the N Interstate public right-of-way, with the message “Exit Only, One-Way” message,
 2. Install a west facing directional sign at the driveway leading onto N. Interstate with the message: “Right Turn Only”,
 3. Install a directional sign facing south, at the N. Alberta driveway entrance that states “Entrance Only, One-Way”.
- C. Parking lot development standards including perimeter parking lot landscaping (Sections 33.266.130.G and 33.248.020.B) must be completed under an issued Building Permit. All standards must be fully met at time of construction.

NOTE: The project is subject to the requirements of the d, Design Review Overlay zone. The applicant may elect to comply with Community Design Standards. The parking lot must also comply with all applicable development standards, including stormwater management and Building Code ADA requirements.

Staff Planner: Sheila Frugoli

Decision rendered by:  **on April 19, 2012**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 23, 2012

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on March 9, 2012, and was determined to be complete on **March 22, 2012**.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 9, 2012.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on May 7, 2012** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing

the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **May 8, 2012 – (the day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

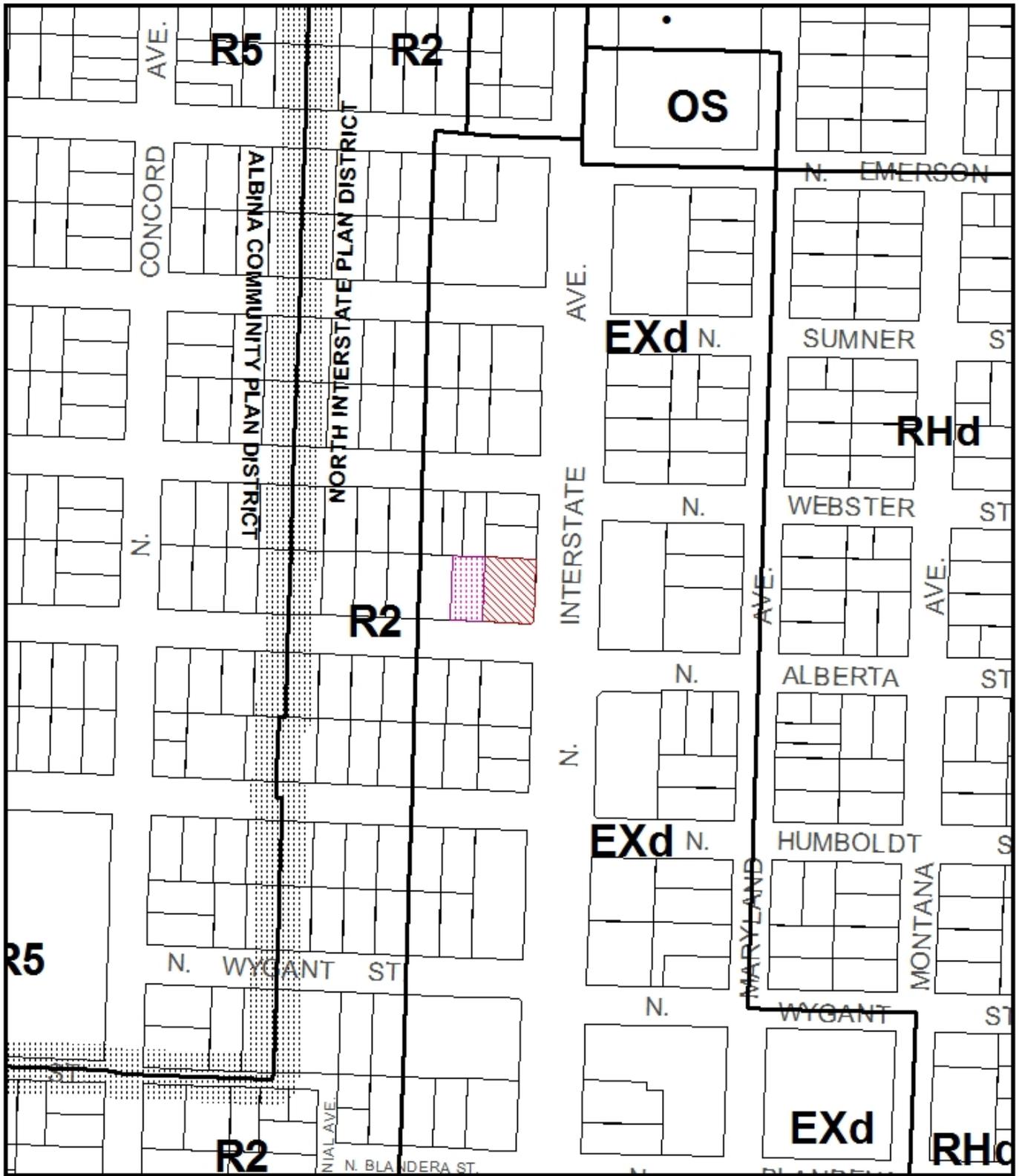
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Transportation
 - 2. Bureau of Transportation Addendum – E-mail from Bob Haley, PBOT
 - 3. Water Bureau
 - 4. TRACS Print-Out showing “no concerns” from the following Bureaus: Environmental Services, Fire, Site Development Review Section of BDS, Bureau of Parks, Forestry Division
- F. Correspondence:
 - 1. Sue Brisbois, April 16, 2012, a letter raising concerns about proposal.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING

 Site
 Also Owned



This site lies within the:
NORTH INTERSTATE PLAN DISTRICT

File No.	LU 12-119236 AD
1/4 Section	2528
Scale	1 inch = 200 feet
State_Id	1N1E21AA 22500
Exhibit	B (Apr 16, 2012)

